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HOUSE BILL 893

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Joni Marie Gutierrez

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; PROVIDING FOR CREDIT FOR MILITARY SERVICE WITHOUT REQUIRING RETURN TO WORK IN CERTAIN CIRCUMSTANCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-11-6 NMSA 1978 (being Laws 1987, Chapter 253, Section 6, as amended) is amended to read:

"10-11-6. CREDITED SERVICE--CREDIT FOR [~~INTERVENING~~] MILITARY AND UNITED STATES GOVERNMENT SERVICE.--

A. A member who leaves the employ of an affiliated public employer to enter a uniformed service of the United States shall be given service credit for periods of service in the uniformed services subject to the following conditions:

(1) either:

(a) the member is reemployed by an

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1 affiliated public employer within ninety days following  
2 termination of the period of intervening [~~servicing~~] service in  
3 the uniformed service; [~~or~~]

4 (b) the affiliated public employer  
5 certifies in writing to the association that the member is  
6 entitled to reemployment rights under the federal Uniformed  
7 Services Employment and Reemployment Rights Act of 1994; or

8 (c) the member is not reemployed by an  
9 affiliated public employer, but, within thirty days of  
10 terminating service in the uniformed service, is employed by  
11 the United States or a uniformed service of the United States,  
12 provided that: 1) within thirty days of employment with the  
13 United States or uniformed service, the member applies for the  
14 service credit with the association; and 2) the service credit  
15 given pursuant to this subparagraph shall not exceed five  
16 years;

17 (2) the member retains membership in the  
18 association during the period of service in the uniformed  
19 services;

20 (3) free service credit shall not be given for  
21 periods of intervening service in the uniformed services  
22 following voluntary reenlistment. Service credit for such  
23 periods shall be given only after the member pays the  
24 association the sum of the contributions that the person would  
25 have been required to contribute had the person remained

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1 continuously employed throughout the period of intervening  
2 service following voluntary reenlistment, which payment shall  
3 be made during the period beginning with the date of  
4 reemployment and whose duration is three times the period of  
5 the person's intervening service in the uniformed services  
6 following voluntary reenlistment, not to exceed five years;

7 (4) service credit shall not be given for  
8 periods of intervening service in the uniformed services that  
9 are used to obtain or increase a benefit from another state  
10 system or the retirement program provided under the Educational  
11 Retirement Act; and

12 (5) the member must not have received a  
13 discharge or separation from uniformed service under other than  
14 honorable conditions.

15 Notwithstanding any provision of this plan to the  
16 contrary, contributions, benefits and service credit with  
17 respect to qualified military service [~~will~~] shall be provided  
18 in accordance with Section 414(u) of the Internal Revenue Code  
19 of 1986, as amended.

20 B. For a member who is subsequently employed by the  
21 government of the United States within thirty days of leaving  
22 the employ of an affiliated public employer:

23 (1) that member may continue membership in the  
24 association subject to the following conditions:

25 (a) the member has fifteen or more years

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1 of credited service;

2 (b) employment by the government of the  
3 United States commences within ninety days of termination of  
4 employment with the last affiliated public employer;

5 (c) the member files with the  
6 association a written application for continued membership  
7 within ninety days of termination of employment with the last  
8 affiliated public employer; and

9 (d) the member remits to the  
10 association, at the times and in the manner prescribed by the  
11 association, the member contributions and the employer  
12 contributions that would have been made had the member  
13 continued in the employ of the last affiliated public employer;

14 (2) the contributions required by Paragraph  
15 (1) of this subsection shall be based on a salary equal to the  
16 member's monthly salary at time of termination of employment  
17 with the last affiliated public employer;

18 (3) credited service [~~will~~] shall be  
19 determined as if the employment by the government of the United  
20 States was rendered the last affiliated public employer; and

21 (4) the employer contributions remitted by the  
22 member shall be credited to the [~~employer~~] employers  
23 accumulation fund and shall not be paid out of the association  
24 in the event of subsequent cessation of membership."